

## Subtitle 5—Maryland Agricultural Land Preservation Foundation

MD Code, Agriculture, § 2-501

### § 2-501. Purpose

#### **Preservation of agricultural land and woodland**

(a) It is the intent of the Maryland General Assembly to preserve agricultural land and woodland in order to:

- (1) Provide sources of agricultural products within the State for the citizens of the State;
- (2) Control the urban expansion which is consuming the agricultural land and woodland of the State;
- (3) Curb the spread of urban blight and deterioration; and
- (4) Protect agricultural land and woodland as open-space land.

#### **Forest lands that are working landscapes**

(b) With respect to woodland preservation under this subtitle, the General Assembly encourages that fair consideration be given to the retention of forest lands that are working landscapes as defined under [§ 5-101 of the Natural Resources Article](#).

MD Code, Agriculture, § 2-502

**§ 2-502. Establishment**

There is a Maryland Agricultural Land Preservation Foundation in the Department. The Foundation has the powers and duties provided in this subtitle.

MD Code, Agriculture, § 2-503  
§ 2-503. Trustees

**Board of trustees, generally**

(a)(1) The Maryland Agricultural Land Preservation Foundation shall be governed and administered by a board of trustees composed of the State Treasurer, who shall serve as an ex officio member, the Comptroller, who shall serve as an ex officio member, the Secretary of Planning, who shall serve as an ex officio member, and the Secretary who shall serve as an ex officio member, and nine members from the State at-large to be appointed by the Governor, at least six of whom shall be farmer representatives from different areas of the State. The State Treasurer may appoint, as the Treasurer's designee, a deputy treasurer to serve on the board of trustees. The Secretary of Planning may appoint as the Secretary's designee an individual within the Department of Planning. All of the farmer representatives shall be actively engaged in or retired from active farming. Four of the six farmer representatives shall be appointed as follows:

- (i) One from a list of three nominees submitted by the Maryland Agricultural Commission;
- (ii) One from a list of three nominees submitted by the Maryland Farm Bureau;
- (iii) One from a list of three nominees submitted by the Maryland State Grange; and
- (iv) One from a list of three nominees submitted by the Young Farmers Advisory Board.

(2) Nominees under paragraph (1)(iv) of this subsection shall meet the requirements of [§ 2-1002\(d\)](#) of this title.

(3) The Governor shall appoint the chairman of the board, from among the nine at-large trustees. A majority of the members of the board serving at any one time constitutes a quorum for the transaction of business.

(4) Notwithstanding the provisions of §§ 5-502 through 5-504 of the General Provisions Article, a person may be appointed to and serve on the board as an at-large member even if prior to the appointment the person sold an easement in the person's agricultural land to the Foundation.

**Term for trustees at-large**

(b)(1) The term of any trustee at-large serving on the board shall expire on July 1, 1977. The Governor then shall appoint trustees at-large for the following terms:

- (i) Three for a term of four years;
- (ii) Three for a term of three years; and
- (iii) Three for a term of two years.

(2) In appointing members at-large to replace members whose terms expire on July 1, 1977, the Governor may appoint members serving as of July 1, 1977. Thereafter, successors to trustees at-large whose terms expire shall be appointed for terms of four years. Vacancies shall be filled for the

unexpired term. A trustee at-large may not serve more than two successive terms. Appointment to fill a vacancy may not be considered as one of two terms.

**Oath for trustees at-large**

(c) Trustees at-large shall take the oath of office as prescribed by law.

**Compensation and reimbursement for expenses**

(d) Compensation may not be paid to any trustee. Each trustee shall be reimbursed for travel and other expenses incurred by him in the performance of his duties on behalf of the Foundation.

MD Code, Agriculture, § 2-504

§ 2-504. Powers

The Maryland Agricultural Land Preservation Foundation has the following general powers:

- (1) To sue and be sued in contractual matters in its own name;
- (2) To enter into contracts generally and to execute all instruments necessary or appropriate to carry out its purposes;
- (3) To acquire, by gift, purchase, devise, bequest or grant, easements in gross or other rights to restrict the use of agricultural land and woodland as may be designated to maintain the character of the land as agricultural land or woodland;
- (4) To acquire and hold, by gift, purchase, devise, bequest or grant, real and personal property, or any interest therein, to carry out the legislative intent of preserving prime agricultural land and woodland and conserving, improving, administering, investing, or disposing of any property to further the purposes of the Critical Farms Program under this subtitle;
- (5) To adopt, with the approval of the Secretary, regulations and procedures necessary to implement the provisions of this subtitle; and
- (6) To promote the dissemination of information to farmers throughout the State concerning the activities of the Foundation.

§ 2-504.1. Advisory boards

**Appointment of board**

(a) In each county containing productive agricultural land, the county governing body shall appoint an agricultural preservation advisory board.

**Board members**

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, the agricultural preservation advisory board shall consist of five members, at least three of whom shall be owner- operators of commercial farms who earn 50 percent or more of their income from farming.

(2) In Worcester County, the agricultural preservation advisory board shall consist of seven members, at least four of whom shall be owner-operators of commercial farms who earn 50 percent or more of their income from farming.

(3) In St. Mary's County, the agricultural preservation advisory board shall consist of five members, at least three of whom shall be actively pursuing the production of agricultural products for profit.

**Membership term**

(c)(1) Except as provided in paragraph (2) of this subsection, each member of an agricultural preservation advisory board shall be appointed for a term of office of five years.

(2) In Charles County and in Worcester County, a member shall serve a term of office of 4 years.

(3) No member shall serve for more than two consecutive full terms.

(4) Appointment to fill a vacancy shall be for the remainder of the unexpired term.

**Duties of board**

(d) Duties of each agricultural preservation advisory board shall be:

(1) To advise the county governing body with respect to the establishment of agricultural districts and the approval of purchases of easements by the Foundation within the county;

(2) To assist the county governing body in reviewing the status of agricultural districts and land under easement;

(3) To advise the Foundation concerning county priorities for agricultural preservation;

(4) To approve or disapprove an application by the county for certification under [§ 5-408 of the State Finance and Procurement Article](#);

(5) To promote preservation of agriculture within the county by offering information and assistance to farmers with respect to establishment of districts and purchase of easements;

(6) To meet at least annually with forest conservation district boards in order to work cooperatively to encourage the promotion and retention of farmland and woodland in their respective jurisdictions;  
and

(7) To perform any other duties as assigned by the county governing body.



## § 2-505. Maryland Agricultural Land Preservation Fund

### **In general**

(a) The Maryland Agricultural Land Preservation Fund is created and continued for the purposes specified in this subtitle.

### **Contents of Fund**

(b) The Maryland Agricultural Land Preservation Fund shall comprise:

- (1) Any money made available to the Fund by general or special fund appropriations;
- (2) Any money made available to the Fund by grants or transfers from governmental or private sources; and
- (3) Any money received under § 2-513(c) of this subtitle.

### **Appropriate disbursements from Fund**

(c)(1) The Comptroller of the Treasury may not disburse any money from the Maryland Agricultural Land Preservation Fund other than:

- (i) For costs associated with the staffing and administration of the Maryland Agricultural Land Preservation Foundation;
- (ii) For reasonable expenses incurred by the members of the board of trustees of the Maryland Agricultural Land Preservation Foundation in the performance of official duties;
- (iii) For consideration in the purchase of agricultural land preservation easements beginning with fiscal year 1979 and each fiscal year thereafter;
- (iv) For costs associated with acquisition of agricultural land preservation easements approved by the Foundation through the Critical Farms Program, as provided in § 2-517 of this subtitle; and
- (v) For the reimbursement of money paid by a landowner for a preliminary release of a lot under § 2-513(b)(2) of this subtitle in accordance with paragraph (5) of this subsection.

(2) The Maryland Agricultural Land Preservation Foundation may provide grants to the Maryland Agricultural and Resource-Based Industry Development Corporation, subject to conditions jointly agreed upon by the Foundation and the Corporation, to facilitate:

- (i) An installment purchase agreement program; or
- (ii) The funding of the Next Generation Farmland Acquisition Program.

(3) The Maryland Agricultural Land Preservation Foundation may provide grants to counties to facilitate:

- (i) The Critical Farms Program, as provided in § 2-517 of this subtitle, subject to conditions jointly agreed upon by the Foundation and the county;
- (ii) The purchase of easements under a county installment purchase agreement program approved by the Foundation, as provided in § 2-510.1 of this subtitle; and

(iii) The payment of the principal of and interest on bonds issued by a county for the sole purpose of purchasing agricultural land preservation easements that meet the requirements of this subtitle, subject to conditions jointly agreed upon by the Foundation and the county.

(4) Grants provided by the Maryland Agricultural Land Preservation Foundation may not be:

- (i) Used to fund county land preservation programs; or
- (ii) Pledged to secure county-issued bonds.

(5)(i) Subject to the prior approval of the board of trustees of the Maryland Agricultural Land Preservation Foundation and in accordance with regulations adopted by the Department, the Maryland Agricultural Land Preservation Foundation may reimburse money paid into the Maryland Agricultural Land Preservation Fund by a landowner for a lot that had been preliminarily released under § 2-513(b)(2) of this subtitle for the purpose of constructing a dwelling house for a landowner or the child of the landowner.

(ii) In the sole discretion of the Maryland Agricultural Land Preservation Foundation, the person for whom the lot was preliminarily released, the person who originally paid for the preliminary release, or another appropriate person may be reimbursed the amount paid to the Fund under § 2-513(b)(2)(iii) of this subtitle if:

1. A dwelling has not been constructed on the lot;
2. A request for reimbursement is made before the preliminary release becomes void under § 2-513(b)(2) of this subtitle;
3. Before reimbursement and at the expense of the owner of the land under the easement:
  - A. The lot is conveyed to the owner free and clear of liens;
  - B. Any recorded plat creating the lot is voided;
  - C. The lot is added to the tax account assigned to the land encumbered by the easement; and
  - D. The preliminary release is voided by an agreement recorded in the land records; and
4. At least one of the following circumstances exists:
  - A. The Foundation has received notice that title to the lot has been transferred under a bona fide foreclosure of a mortgage or deed of trust or a deed in lieu of foreclosure;
  - B. The Foundation has received notice that the landowner or child of the landowner for whom the lot was preliminarily released has died; or
  - C. Any other circumstance in which the Maryland Agricultural Land Preservation Foundation determines that it would be impossible for the landowner or child of the landowner for whom the lot was preliminarily released to fulfill the requirements of the preliminary release.

#### **Money remaining in Fund**

(d) Any money remaining in the Fund at the end of a fiscal year may not revert to the general funds of the State, but shall remain in the Maryland Agricultural Land Preservation Fund to be used for the purposes specified in this subtitle. It is the intent of the General Assembly that, to the extent feasible,



the Foundation utilize the full amount of money available for the purchase of easements in any fiscal year so as to minimize the amount of money remaining in the Fund at the end of any fiscal year.

**Funds transferred to Maryland Agricultural Land Preservation Fund**

(e) If a portion of a local subdivision's allocation of Program Open Space funds is transferred to the Maryland Agricultural Land Preservation Fund pursuant to the provisions of [§ 5-903 of the Natural Resources Article](#), the Foundation may utilize such transferred funds only for purchases of easements on land located within the boundaries of the subdivision which requested the transfer of funds. Such transferred open space funds shall be available in addition to any funds which would otherwise be allotted under this subtitle for purchases of easements in the county which requested the transfer of funds; and at the discretion of the local governing body, such transferred open space funds may be used for general purchases, or applied as the local contribution in matching purchases as required in [§§ 2-508\(a\)\(5\) and 2-512\(b\)\(1\)](#) of this subtitle.

**Use of moneys from sale of tax-exempt general obligation bonds**

(f) Money in the Fund from the sale of tax-exempt general obligation bonds may not be used:

(1) To purchase easements under:

(i) An installment purchase agreement, as provided in [§ 2-510\(k\)\(3\)](#) of this subtitle;

(ii) A schedule of installments financed with certificates of deposit, as provided in [§ 2-510\(k\)\(2\)](#) of this subtitle; or

(iii) The Critical Farms Program, as provided in [§ 2-517](#) of this subtitle; or

(2) For the payment of the principal of and interest on bonds issued by a county in accordance with subsection (c) of this section.

**Budget of Foundation included in Department budget**

(g) The estimated budget of the Foundation for the next fiscal year shall be included with the budget of the Department.

**Audits**

(h) The Fund is subject to audit by the Legislative Auditor as provided in [§ 2-1220 of the State Government Article](#).

MD Code, Agriculture, § 2-506

§ 2-506. Annual report

The Foundation on or before January 15 of each year, shall transmit to the Governor and, subject to [§ 2-1246 of the State Government Article](#), to the General Assembly a report of the Foundation's proceedings and activity for the preceding fiscal year, including an inventory of all easements or other interests in agricultural land and woodland acquired during that time, and including a report on the condition of the Maryland Agricultural Land Preservation Fund.

MD Code, Agriculture, § 2-507

§ 2-507. Staff

The Maryland Agricultural Land Preservation Foundation shall employ an executive director and staff sufficient to carry out the purposes of this subtitle. The executive director shall be appointed by the Secretary upon recommendation of the board of trustees at-large. The salaries of the executive director and staff shall be as provided in the State budget.

MD Code, Agriculture, § 2-508  
§ 2-508. Purchases of easements

**Definitions**

- (a)(1) For purposes of this subtitle the following words have the meanings indicated.
- (2) "Allotted purchases" means general or matching purchases made pursuant to offers to buy tendered by the Foundation on or before January 31 of any fiscal year.
- (3) "County" means any county containing productive agricultural land which is being actively farmed and which meets the criteria for land for which easements may be purchased.
- (4) "Eligible county" means a county as defined in paragraph (3) of this subsection which has secured approval from the Foundation for a local agricultural land preservation program.
- (5) "General purchases of easements" means purchases of agricultural land preservation easements under this subtitle in which the governing body of the county in which the land is located is not required to make a contribution to the Maryland Agricultural Land Preservation Fund.
- (6) "Matching purchases of easements" means purchases of agricultural land preservation easements under this subtitle in which the governing body of the county in which the land is located is required to make a contribution to the Maryland Agricultural Land Preservation Fund of an amount equal to at least 40 percent of the value of the easement for each such purchase.
- (7) "Total amount to be allotted" means the amount, as certified by the Comptroller, which remains in the Maryland Agricultural Land Preservation Fund at the beginning of the fiscal year after payment of all expenses of the Foundation and the board of trustees during the previous fiscal year as specified in [§ 2-505\(c\)\(1\) and \(2\)](#) of this subtitle, and after subtraction of funds committed for payment as consideration for easements purchased during previous fiscal years, and after subtraction of any money remaining in the Fund as a result of a transfer of local Program Open Space funds made pursuant to [§ 5-903 of the Natural Resources Article](#).

**Maximum amount allotted to purchase of easements**

- (b) Beginning with fiscal year 1979, and in each fiscal year thereafter, the Foundation shall determine the maximum amount which may be expended for allotted purchases of easements on land located within each county. The maximum amount which may be expended for allotted purchases of easements in any county in any fiscal year shall be:
- (1) An amount, to be used for general allotted purchases, equal to one twenty-third of one half of the total amount to be allotted; and
- (2) An amount, to be used for matching allotted purchases, which shall be computed for each eligible county by dividing one half of the total amount to be allotted equally among those counties having an approved program. The maximum amount available from the Foundation for the Foundation's share in matching allotted purchases may not exceed \$2,000,000 in any county in any fiscal year.



**Additional offers to buy to expend total allotted amount**

(c) If the Foundation receives acceptances of offers to buy in insufficient numbers to expend the total amount to be allotted for allotted purchases, the Foundation, to the extent feasible, shall tender additional offers to buy in sufficient numbers to expend the total amount to be allotted. Any such additional offers to buy shall be tendered:

(1) To landowners who have applied to sell easements on land which was otherwise acceptable, but who had not received an offer to buy solely because of limitations on the amount of money to be spent for allotted purchases;

(2) To applicants on a statewide basis as provided by the priority ranking system established under [§ 2-510\(f\)](#) of this subtitle; and

(3) Only after the expiration of the period allowed for acceptance of offers to buy under allotted general and matching purchases.

**Lands draining into State reservoirs**

(d) In prioritizing an application to sell an easement, a local governing body shall consider whether the land drains into a reservoir in the State.

MD Code, Agriculture, § 2-508.1

§ 2-508.1. Disbursements

**Application for moneys remaining in Fund**

(a) If a county is certified by the Department of Planning under § 5-408 of the State Finance and Procurement Article as having established an effective county agricultural land preservation program, and if there is money remaining in the Maryland Agricultural Land Preservation Fund at the end of the fiscal year, the county may apply to the Foundation for an amount equal to the difference between:

- (1) The aggregate amount allotted on behalf of the county under general allotted purchases of easements as provided in § 2-508(b) of this subtitle for the fiscal year in which easement purchases are made; and
- (2) The amount committed by the Foundation on behalf of the county under general allotted purchases of easements as provided in § 2-508(b) of this subtitle for the fiscal year in which easement purchases are made.

**Deadline for distribution**

(b) The distribution under this section shall be made within 60 days of the end of each fiscal year.

**Money in Fund insufficient to distribute total amount**

(c) If the money remaining in the Maryland Agricultural Land Preservation Fund at the end of the fiscal year is insufficient to distribute the total amount applied for under subsection (a) of this section, the maximum amount that may be distributed to any certified county is:

- (1) The total sum available divided by the number of counties applying for additional funds under this section; less
- (2) The amount committed by the Foundation on behalf of the county under general allotted purchases of easements as provided in § 2-508(b) of this subtitle for the fiscal year in which easement purchases are made.

**Use of additional funds by county**

(d) A county may use the additional funds distributed under this section only for an approved agricultural land preservation program for the purposes stated under § 2-512 of this subtitle, including use for bond annuity funds, collateralizing loans, or matching funds.

MD Code, Agriculture, § 2-509  
§ 2-509. Agricultural districts

**Duties of Foundation relating to easement application process**

(a)(1) The Foundation shall follow the provisions under this section for the easement application process.

(2) The Foundation shall adopt regulations and procedures for:

- (i) Evaluation of land for which application is made to sell an easement; and
- (ii) Purchase of easements, including the purchase of easements under an installment purchase agreement.

**Establishment and monitoring of agricultural districts**

(b) Regulations and procedures adopted by the Foundation for the purchase of easements shall provide that:

(1) One or more owners of land actively devoted to agricultural use may file an application with the county governing body requesting the purchase of an easement by the Foundation on the land owned by the applicants. The application shall include maps and descriptions of the current use of land for the proposed easement, and any other information required by the Foundation to evaluate the land for purchase of an easement.

(2) Upon receipt of an application to purchase an easement the local governing body shall refer the application and accompanying materials both to the agricultural preservation advisory board and to the county planning and zoning body.

(i) After the referral of an application, the agricultural preservation advisory board shall advise the county governing body as to whether or not the land for the proposed easement meets the qualifications established by the Foundation under subsection (d) of this section, and whether or not the advisory board recommends the purchase of the easement.

(ii) In making its recommendation, the county agricultural preservation advisory board shall:

1. Take into consideration criteria and standards established by the Foundation under this subtitle, current local regulations, local patterns of land development, the kinds of development pressures currently existing on the land for the proposed easement, State smart growth goals, and any locally established priorities for the preservation of agricultural land; and
2. Recommend for ranking any application that qualifies and meets the priorities established by the county governing body for the preservation of agricultural land.

(iii) After the referral of an application, the county planning and zoning body shall advise the local governing body as to whether or not the purchase of the easement is compatible with existing and approved county plans and overall county policy, and whether or not the planning and zoning body recommends the purchase of the easement.

(3) If either the agricultural preservation advisory board or the planning and zoning body recommends approval, the county governing body shall hold a public hearing on the application for the proposed easement. Adequate notice of the hearing shall be given to all owners whose land would be encumbered by the proposed easement and all owners whose land is contiguous to the land for the proposed easement.

(4) In deciding whether to approve the application, the county governing body shall receive the recommendation of the county agricultural preservation advisory board established under § 2-504.1 of this subtitle.

(5)(i) After the receipt of the application and the recommendations of the agricultural preservation advisory board and the county planning and zoning body, the county governing body shall render a decision as to whether or not the application shall be recommended to the Foundation for approval.

(ii) If the county governing body decides to recommend approval of the application, it shall notify the Foundation and forward to the Foundation:

1. The application and all accompanying materials, including the recommendations of the advisory board and county planning and zoning body;

2. A ranking of all applications based on:

A. The county governing body's locally established priorities as approved by the Foundation, which for purposes of enhancing competitive bidding may include a system that ranks properties in ascending order with respect to the proportion obtained by dividing the asking price by the value of the easement; and

B. Guidelines adopted by the Foundation under subsection (d) of this section; and

3. A statement of the total current development rights on the land for the proposed easement, which shall include the total number of development rights that have been subdivided or transferred.

(iii) If the county governing body recommends denial of the application, it shall inform the Foundation and the applicants.

#### **Natural gas rights owner or lessee in Garrett or Allegany Counties**

(c) Regulations and procedures adopted by the Foundation for the purchase and monitoring of easements may not require, in Garrett County or Allegany County, a natural gas rights owner or lessee to subordinate its interest to the Foundation's interest if the Foundation determines that exercise of the natural gas rights will not interfere with an agricultural operation conducted on land subject to an easement.

#### **Land included in agricultural district or subject to easement**

(d) Regulations and criteria developed by the Foundation relating to land which may be considered for purchase of an easement shall provide that:

(1) Subject to item (2) of this subsection, land shall meet productivity, acreage, and locational criteria determined by the Foundation to be necessary for the continuation of farming;



- (2) As long as all other criteria are met, land that is at least 50 acres in size or is contiguous to other permanently preserved land shall qualify for purchase of an easement;
- (3) The Foundation shall attempt to preserve the minimum number of acres which may reasonably be expected to promote the continued availability of agricultural suppliers and markets for agricultural goods;
- (4) Land within the boundaries of a 10-year water and sewer service district may be considered for purchase of an easement only if that land is outstanding in productivity and is of significant size;
- (5) Land may be considered for purchase of an easement only if the county regulations governing the land permit the activities listed under § 2-513(a) of this subtitle; and
- (6) Land be evaluated for:
  - (i) Location in a priority preservation area of the county;
  - (ii) Soil and other land characteristics associated with agricultural and silvicultural productivity;
  - (iii) Agricultural and silvicultural production and contribution to the agricultural and silvicultural economy; and
  - (iv) Any other unique county considerations that support the goals of the program.

MD Code, Agriculture, § 2-510  
§ 2-510. Sale of easement

**Sale of easement on contiguous acreage of land**

(a) An owner of agricultural land whose application to sell an easement has been approved by the county under this subtitle may sell an easement to the Foundation on the contiguous acreage of the agricultural land, subject to the requirements of this subtitle and regulations of the Foundation.

**Sale applications**

(b) In order to be considered by the Foundation, an application to sell shall:

- (1) Be received by the board at a time the board determines for the fiscal year in which the application is to be considered;
- (2) Include an asking price at which the owner is willing to sell an easement; and
- (3) Include a complete description of the land for the proposed easement.

**Maximum number of applications**

(c) The board shall determine the maximum number of applications that it will accept from each county in each offer cycle.

**Sufficiency of application**

(d) Within 30 days after the receipt of an application from the county governing body, the Foundation shall notify the landowner and the county governing body of the receipt and sufficiency of the application. If the original application is insufficient, the Foundation shall specify the reason for insufficiency, and the Foundation shall grant an additional 30 days for the landowner to remedy the insufficiency. If the application is made sufficient within 30 days of the notification by the Foundation, the application shall be considered as if it had originally been submitted in a timely and sufficient manner.

**County notification of sale application**

(e) If the application is submitted to the Foundation prior to county approval, then within 60 days of the notification of sufficiency of the application, the county governing body shall advise the Foundation as to the county's approval or disapproval of the application. The Foundation shall grant a 30-day extension of this approval period if the county governing body applies to the Foundation for an extension and states its reasons for seeking an extension.

**Approval of sale applications**

(f)(1) In determining which applications it shall approve for the purchase of the easements offered for sale in each fiscal year under this section, the Foundation:

- (i) May approve only those applications in which the subject land meets the criteria and standards established under §§ 2-509 and 2-513 of this subtitle;

(ii) Except as provided in subparagraph (iii) of this paragraph, review the applications and submit offers to buy at the beginning of each offer cycle based on the approved priorities established by each eligible county for the preservation of agricultural land; and

(iii) For applications competing on a statewide basis following the initial round of offers, shall rank the applications and submit offers to buy in order of priority, as provided in paragraph (2) of this subsection.

(2) The Foundation shall adopt by regulation a standard priority ranking system for additional offers to buy by which it shall rank each application. The system shall be based on the following criteria as to the easements offered in any one county:

(i) The applications shall be assigned a rank in ascending order with respect to the proportion obtained by dividing the asking price by the State easement value. The resulting rank shall be the sole criterion for establishing the priority for discounted applications that include proportions of 1.0 or lower.

(ii) All additional applications which include proportions greater than 1.0 shall be assigned a numerical value that, in regard to the land for which the easement is offered, reflects:

1. The relative productive capacity of the land;
2. The extent to which the easement acquisition will contribute to the continued availability of agricultural suppliers and markets for agricultural goods; and
3. The priority recommendations of the local governing bodies.

#### **General allotted purchases of easements**

(g) The Foundation may approve general allotted purchases of easements in a county not to exceed in aggregate value the amount allotted for that county under [§ 2-508\(b\)](#) of this subtitle for the fiscal year in which such purchases are made, plus any amount of transferred local open space funds designated by the local governing body for general purchases.

#### **Matching allotted purchases of easements**

(h) The Foundation may approve matching allotted purchases of easements in an eligible county such that the Foundation's share will not exceed in aggregate value the amount allotted for that county under [§ 2-508\(b\)](#) of this subtitle for that fiscal year.

#### **Offers to buy**

(i) Upon approval of a majority of the board members at-large, and upon the recommendation of the State Treasurer and the Secretary, an application to sell shall be approved, and an offer to buy containing the specific terms of the purchase shall be tendered to the landowner. An offer to buy may specify terms, contingencies, and conditions not contained in the original application.

#### **Timeline for offers to buy and acceptance or rejection of offer**



(j)(1) With respect to additional offers to buy tendered under § 2-508(c) of this subtitle, the Foundation may not tender such offers earlier than 30 days after the completion of allotted offers to buy in each offer cycle.

(2) A landowner has 30 days from the date of any offer to buy in which to accept or reject the offer.

#### **Schedule of payment**

(k)(1) At the time of settlement of the purchase of an easement, the landowner and the Foundation may agree upon and establish a schedule of payment such that the landowner may receive consideration for the easement in a lump sum, in installments over a period of up to 10 years from the date of settlement, or as provided in an installment purchase agreement under paragraph (3) of this subsection. At the time of settlement, the Foundation shall notify in writing each landowner who sells an agricultural easement to the Foundation of the schedule of anticipated ranges of interest rates to be paid on any unpaid balance after the date of settlement.

(2)(i) If a schedule of installments is agreed upon, the Comptroller shall retain in the Maryland Agricultural Land Preservation Fund an amount of money sufficient to pay the landowner according to the schedule.

(ii) The landowner shall receive interest on any unpaid balance remaining after the date of settlement. The State Treasurer shall invest the unpaid balance remaining after the date of settlement in a certificate or certificates of deposit at the maximum interest rate offered by a bank servicing the State or at such other institutions which pay the maximum interest rates payable on time and savings deposits at federally insured commercial banks selected by the Treasurer, to mature in accordance with an agreed upon schedule of installments as provided in this section. Any interest earned on the invested unpaid balance shall be paid with the installment when due, less  $\frac{1}{4}$  of 1 percent.

(3)(i) The Foundation may pay the landowner according to a schedule, up to a maximum term of 15 years, established in an installment purchase agreement.

(ii) The installment purchase agreement shall:

1. Require that the Foundation make annual equal payments to the landowner of interest on the outstanding balance of the purchase price;
2. Require that the Foundation pay the landowner the remainder of the purchase price at the end of the term;
3. State the total amount of money the Foundation will pay the landowner, the interest rate, and the terms of the agreement; and
4. Require that the easement be recorded within 30 days of settlement.

#### **Rejection of application or offer**



(l)(1) After the Foundation has expended allotted funds for a fiscal year in offers to purchase, the Foundation shall notify all landowners whose applications had been rejected during that fiscal year. The Foundation shall specify the reasons for that rejection.

(2) A landowner who rejects an offer from the Foundation to purchase an easement on the same land during two consecutive years, for a reason other than insufficient Foundation funds, may not reapply to sell an easement on the same land for the following two consecutive years.

**Confidentiality of records**

(m) Notwithstanding any other provision of law, for each offer cycle as provided in this section, records relating to a landowner's ranking, asking price, or Foundation offer shall be confidential and not subject to public inspection until after the end of the cycle, as determined by the Foundation.

§ 2-510.1. Installment purchase agreements

**In general**

(a) The Foundation may make a grant to purchase an easement on a property selected by the Foundation to a county with a program, approved by the Foundation, to purchase easements using installment purchase agreements.

**Installment purchase agreement requirements**

(b) The Foundation may only approve a county's installment purchase program if the program is used to purchase easements using installment purchase agreements that:

- (1) Require the county to make annual equal payments to the landowner of interest on the outstanding balance of the purchase price;
- (2) Require that the county pay the landowner the remainder of the purchase price at the end of the term;
- (3) State the total amount of money the county will pay the landowner, the interest rate, and the terms of the agreement; and
- (4) Require that the easement be recorded within 30 days of settlement.

**Easement held jointly by county and Foundation**

(c) An easement purchased using a grant provided under this section shall be jointly held by the county and the Foundation.

**Termination of easement**

(d) An easement purchased using a grant provided under this section may not terminate.

MD Code, Agriculture, § 2-511  
§ 2-511. Easement's value

**Maximum value of easement**

(a) Except as provided in subsection (e) of this section, the maximum value of any easement to be purchased shall be the asking price or the difference between the fair market value of the land and the agricultural value of the land, whichever is lower.

**Fair market value of land**

(b) The fair market value of the land is the price as of the valuation date for the highest and best use of the property which a vendor, willing but not obligated to sell, would accept for the property, and which a purchaser, willing but not obligated to buy, would pay for the property if the property was not subject to any restriction imposed under this subtitle.

**Agricultural value of land**

(c) The agricultural value of land is the price as of the valuation date which a vendor, willing but not obligated to sell, would accept for the property, and which a purchaser, willing but not obligated to buy, would pay for the property as a farm unit, to be used for agricultural purposes.

**Time of valuation of easement**

(d)(1)(i) The value of the easement is determined at the time the Foundation is requested in writing to purchase the easement.

(ii) The fair market value shall be determined by the Department of General Services based on one or more appraisals by the State appraisers, and appraisals, if any, of the landowner.

(iii) The entire contiguous acreage shall be included in the determination of the value of the easement, less 1 acre per single dwelling; however, except as provided in § 2-513(b)(2) of this subtitle, the entire contiguous acreage, including the 1 acre per single dwelling, is subject to the easement restrictions.

(2)(i) Subject to subparagraph (ii) of this paragraph, the agricultural value of land shall be determined by a formula approved by the Department that measures the farm productivity of the land on which the applicant has applied to sell an easement by taking into consideration weighted factors that may include rents, location, soil types, development pressure, interest rates, and potential agricultural use.

(ii) The agricultural value determined under subparagraph (i) of this paragraph is subject to the approval of the Department.

**Purchase restrictions**

(e)(1) Notwithstanding the provisions of this section, and except as provided in paragraph (2) of this subsection, the Foundation may not purchase an easement for more than 75% or less than 25% of the fair market value of the land.

(2) The Foundation may purchase an easement for less than 25% of the fair market value of the land if the owner's asking price is less than 25% of the fair market value of the land.

**Disagreements as to value of easement**

(f)(1) If the landowner and the Foundation do not agree on the value of the easement as determined by the State, either the landowner or the Foundation may request, no later than September 30 of the year following the determination of the value, that the matter be referred to the property tax assessment appeal board as provided under [§ 3-107 of the Tax--Property Article](#), for arbitration as to the value of the easement.

(2) The value determined by that arbitration shall be binding upon the owner and the Foundation in a purchase of the easement made subsequent to the arbitration for a period of 2 years, unless the landowner and the Foundation agree upon a lesser value or the landowner or the Foundation appeals the results of the arbitration to the Maryland Tax Court, and either party may further appeal from the Tax Court as provided in [§ 13-532 of the Tax--General Article](#).



MD Code, Agriculture, § 2-512  
§ 2-512. Approval of local programs

**Approval of program required for matching allotted purchases of easements**

(a) The Foundation may not approve matching allotted purchases of easements for land located in any county which has not secured approval from the Foundation for a local program of agricultural land preservation.

**Grounds for approval of local program**

(b) The Foundation may approve a local program of agricultural land preservation upon request of a county, provided that:

(1) The county shall agree to make payments up to a specified aggregate amount to the Maryland Agricultural Land Preservation Fund to equal at least 40 percent of the value of any easement acquired by the Foundation as a result of a matching allotted purchase, made during the ensuing fiscal year; and

(2) The county shall show evidence that any county program for the acquisition of agricultural land for preservation, or easements for purposes of preservation of agricultural land, will not result in preservation of land which does not meet the minimum standards set by the Foundation under [§ 2-509](#) of this subtitle; and

(3) The request for approval of a local program must be submitted to the Foundation, together with any necessary agreements not later than 90 days prior to the beginning of the fiscal year for which approval is being sought.

**Duration of approval**

(c) Approval of a local program by the Foundation is valid only during the next fiscal year following the fiscal year of the request for approval by the county.

**Approval by majority of Foundation members, Secretary, and State Treasurer**

(d) Local programs shall be approved upon the affirmative vote of a majority of the Foundation members at-large, and upon approval of the Secretary and the State Treasurer.

**Development rights**

(e)(1) In this subsection, "development rights" means the potential for improvement of a parcel of real property that is measured in dwelling units or units of commercial or industrial space and that exist because of the zoning classification of the parcel.

(2) A county shall use that county's unencumbered and uncommitted matching funds and any additional funds under [§ 2-508.1](#) of this subtitle available to a county certified by the Department of Planning and the Foundation under [§ 5-408 of the State Finance and Procurement Article](#) to purchase development rights and guarantee loans that are collateralized by development rights for

agricultural land that meets the minimum standards set by the Foundation under [§ 2-509\(d\)](#) of this subtitle, except as provided in paragraph (3) of this subsection.

(3) For a county certified by the Department of Planning and the Foundation under [§ 5-408 of the State Finance and Procurement Article](#), in lieu of any acreage requirement set by the Foundation under [§ 2-509\(d\)](#) of this subtitle, development rights purchased by or collateralizing loans guaranteed by a county under this subsection shall be for agricultural land of significant size to promote an agricultural operation.

(4) This subsection may not be construed to prohibit any county from accepting funds from private sources and using those private funds to purchase development rights or guarantee loans that are collateralized by development rights.

MD Code, Agriculture, § 2-513  
§ 2-513. Use of land under easement

**Farm production, processing of agricultural products, or normal agricultural operations**

(a) Agricultural land preservation easements may be purchased under this subtitle for any land in agricultural use which meets the minimum criteria established under § 2-509 of this subtitle if the easement and county regulations governing the use of the land include the following provisions:

- (1) Any farm use of land is permitted.
- (2) Operation at any time of any machinery used in farm production or the primary processing of agricultural products is permitted.
- (3) All normal agricultural operations performed in accordance with good husbandry practices which do not cause bodily injury or directly endanger human health are permitted including, but not limited to, sale of farm products produced on the farm where such sales are made.

**Commercial, industrial, or residential use of land prohibited**

(b)(1) A landowner whose land is subject to an easement may not use the land for any commercial, industrial, or residential purpose except:

- (i) As determined by the Foundation, for farm- and forest-related uses and home occupations; or
- (ii) As otherwise provided under this section.

(2) Except as provided in paragraphs (3) and (7) of this subsection, on written application, the Foundation shall release free of easement restrictions only for the landowner who originally sold an easement, 1 acre or less for the purpose of constructing a dwelling house for the use only of that landowner or child of the landowner, up to a maximum of three lots, subject to the following conditions:

(i) The number of lots allowed to be released under this section, except as provided in paragraph (7) of this subsection, may not exceed:

1. 1 lot if the size of the easement property is 20 acres or more but fewer than 70 acres;
2. 2 lots if the size of the easement property is 70 acres or more but fewer than 120 acres; or
3. 3 lots if the size of the easement property is 120 acres or more.

(ii) The resulting density on the property may not exceed the density allowed under zoning of the property before the Foundation purchased the easement.

(iii) The landowner shall pay the State for any acre or portion released at the price per acre that the State paid the owner for the easement.

(iv) If the release is to be issued for a child of the landowner, the child must be at least 18 years of age at the date that the preliminary release is issued.

(v) Before any conveyance or release, the landowner and the child, if there is a conveyance to a child, shall agree not to subdivide further for residential purposes any acreage allowed to be

released. The agreement shall be recorded among the land records where the land is located and shall bind all future owners.

(vi) After certifying that the landowner or child of the landowner has met the conditions provided in subparagraphs (i) through (v) of this paragraph, the Foundation shall issue a preliminary release which shall:

1. Become final when the Foundation receives and certifies a nontransferable building permit in the name of the landowner or child of the landowner for construction of a dwelling house;
2. Become void upon the death of the person for whose benefit the release was intended if the Foundation has not yet received a building permit as provided in this subparagraph; or
3. Unless extended by a majority vote of the Foundation Board of Trustees, become void if a nontransferable building permit in the name of the landowner or child of the landowner is not received by the Foundation within 3 years of the date of recordation of the preliminary release.

(vii) Any release or preliminary release issued under this paragraph shall include:

1. A statement of the conditions under which it was issued, a certification by the Foundation that all necessary conditions for release or preliminary release have been met, and copies of any pertinent documents;

2. A statement by the landowner or child of the landowner that acknowledges that:

A. Adjacent farmland that is subject to an agricultural land preservation easement may be used for any agricultural purpose and may interfere with the use and enjoyment of the property through noise, odor, vibration, fumes, dust, glare, or other interference;

B. There is no recourse against the effects of any normal agricultural operation performed in accordance with good husbandry practices;

C. The landowner's or child's lot may not be transferred for 5 years from the date of the final release, except on:

I. Approval by the Foundation; or

II. Notwithstanding any conditions on transfers imposed under item 1 of this subparagraph, a lender providing notice to the Foundation of a transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed in lieu of foreclosure;

D. If the lot is not used for the person or purpose for which it was released for the 5-year period, the Foundation may require the lot owner to reconvey the lot to the owner of the land encumbered by the easement from which it was released and subject the lot to the restrictions of the easement; and

E. Acknowledgments made under items A, B, C, and D of this item are binding to any successor or assign of the landowner or child.

(viii) Any release, preliminary release, building permit, or other document issued or submitted in accordance with this paragraph shall be recorded among the land records where the land is located and shall bind all future owners.



- (ix) The Foundation may not restrict the ability of a landowner who originally sold an easement to acquire a release under this paragraph beyond the requirements provided in this section.
- (x) The Foundation may require evidence it deems sufficient to ensure that the persons for whom the lots are released occupy the dwellings located on the lots for the 5-year period.
- (3) A landowner may reserve the right to exclude 1 unrestricted lot from an easement in lieu of all owner's and children's lots to which the landowner would otherwise be entitled under paragraph (2) of this subsection, subject to the following conditions:
- (i) The resulting density on the property shall be less than the density allowed under zoning of the property before the Foundation purchased the easement;
  - (ii) An unrestricted lot may be subdivided by the landowner from the easement and sold to anyone to construct one residential dwelling;
  - (iii) The size of an unrestricted lot shall be 1 acre or less, except as provided in paragraph (7) of this subsection;
  - (iv) The landowner shall agree not to subdivide further for residential purposes any acreage allowed to be released, and the agreement shall be recorded among the land records where the land is located and shall bind all future owners;
  - (v) The right to the lot is taken into consideration in the appraisal of fair market value and determination of easement value;
  - (vi) The lot can be subdivided at any time and the location of the lot to be subdivided is subject to the approval of the local agricultural advisory board and the Foundation; and
  - (vii) If the property is transferred before the right to exclude the lot has been exercised, the right may be transferred with the property.
- (4)(i) Subject to the approval of the Foundation, and based on a showing of a current compelling need, a landowner may construct housing for tenants fully engaged in operation of the farm.
- (ii) Construction may not exceed 1 tenant house per 100 acres, unless the Foundation grants an exception based on a showing of compelling need.
- (iii) The land on which a tenant house is constructed may not be subdivided or conveyed to any person. In addition, the tenant house may not be conveyed separately from the original parcel.
- (iv) The Foundation shall adopt regulations to:
1. Establish criteria for a landowner to show the basis of a current compelling need to construct a tenant house; and
  2. Establish the size and location of tenant houses.
- (5)(i) After obtaining approval for the construction of a tenant house under paragraph (4) of this subsection, a landowner may, instead of constructing a new tenant house, convert an existing dwelling house into a tenant house and construct one replacement dwelling house restricted to the landowner's own use, subject to the conditions provided under subparagraph (ii) of this paragraph.

(ii) 1. Before a replacement dwelling house may be constructed under this subsection, the landowner shall:

A. Obtain the Foundation's approval; and

B. Execute an agreement with the Foundation to prohibit the replacement dwelling house from being separately conveyed from the original parcel.

2. The agreement required under subparagraph 1 of this subparagraph shall be recorded among the land records in the county where the land upon which the replacement dwelling house is to be located and shall bind future owners of the land.

3. The size and location of a replacement dwelling house constructed in accordance with this paragraph shall be subject to the Foundation's approval.

4. A replacement dwelling house constructed in accordance with this paragraph shall be treated as a relocated existing dwelling house as described in paragraph (8) of this subsection, but is exempt from the requirements under paragraph (8)(ii) of this subsection.

(iii) The Foundation shall adopt regulations to establish the size and location of replacement dwelling houses.

(6) Except as provided in paragraph (7) of this subsection, on request to the Foundation, an owner may exclude from the easement restrictions 1 acre per each single dwelling, which existed at the time of the sale of the easement, as an owner's, children's, or unrestricted lot to which the owner is entitled under paragraph (2) of this subsection, by a land survey and recordation provided at the expense of the owner. However, before any exclusion is granted, an owner shall agree with the Foundation not to subdivide further for residential purposes any acreage allowed to be released. This agreement shall be recorded among the land records where the land is located and shall bind all future owners.

(7)(i) The restrictions of paragraphs (2) and (6) of this subsection concerning maximum lot sizes are altered so that the maximum lot size is:

1. As determined by the Department of the Environment in accordance with regulations adopted by the Department of the Environment in areas where there is less than 4 feet of unsaturated and unconsolidated soil material below the bottom of an on-site sewage disposal system or in areas located within 2,500 feet of the normal water level of an existing or proposed water supply reservoir; or

2. Up to a maximum of 2 acres when regulations adopted by the jurisdiction in which the land is situated require that a lot for a dwelling house be larger than 1 acre.

(ii) For exclusions provided under paragraph (6) of this subsection, the landowner shall pay the State for any acre or portion released in excess of the 1 acre per single dwelling that existed at the time of easement.

(8) The Foundation may approve a landowner's request to relocate the site of an existing dwelling to another location on a farm subject to an easement, provided:

- (i) The new location does not interfere with any agricultural use; and
- (ii) Subject to the Foundation's approval, the landowner agrees either to demolish the existing dwelling at the current location or permanently convert the existing dwelling at the current location to a use that is nonresidential and integral to the farm operation.

(9)(i) The Foundation may enter into corrective easements with landowners in order to:

- 1. Adjust boundary lines;
- 2. Resolve easement violations; or
- 3. Accommodate a plan that the Foundation has determined will benefit the agricultural operations.

(ii) Corrective easements under this paragraph may be accomplished by the exchange and release of farmland subject to easement restrictions with other farmland that meets the requirements of this subtitle.

(iii) Corrective easements approved by the Foundation are not subject to the requirements of §§ 4-416 and 10-305 of the State Finance and Procurement Article.

(iv) The Foundation shall adopt regulations to carry out this paragraph.

(10) The restrictions of paragraphs (2) and (6) of this subsection concerning maximum lot sizes may be waived by the Foundation so that the maximum lot size is 2 acres if:

(i) The Foundation receives a recommendation to allow a maximum lot size of more than 1 acre from the county agricultural preservation advisory board and the planning and zoning authority of the jurisdiction where the land is situated; and

(ii) The Foundation makes a determination that a lot size greater than 1 acre will not interfere significantly with the agricultural use of the land under easement.

(c)(1)(i) In this subsection the following words have the meanings indicated.

(ii) "Authorized renewable energy source" means the following energy sources:

- 1. Solar;
- 2. Wind;
- 3. Anaerobic digestion of poultry litter if placed on fallow land; and
- 4. Anaerobic digestion of livestock manure if placed on fallow land.

(iii) "Reference point" means a point on the Patuxent Naval Air Station centered at 38.29667N and 76.37668W.

(2) Subject to paragraph (4) of this subsection, any easement approved for purchase by the Board of Public Works after June 30, 2014, shall authorize the landowner to request approval, with a favorable recommendation of the local agricultural advisory board and if not prohibited by federal, State, and local laws and regulations, to use the land subject to the easement for the generation of electricity by a facility utilizing an authorized renewable energy source provided that:

(i) The facility occupies no more than 5% or 5 acres, whichever is less, of the land subject to the easement:

1. Including permanent roads or structures that are necessary for access for operation and maintenance purposes; and

2. Not including any temporary impacts necessary for construction of the facility;

(ii) The Foundation determines that authorizing the landowner to use the land subject to the easement for the generation of electricity by a facility utilizing an authorized renewable energy source will not:

1. Interfere significantly with the agricultural use of the land subject to the easement; and

2. Interfere with State, local, or federal restrictions placed on funds used by the Foundation to purchase the easement; and

(iii) For generation of electricity from wind, the generating station's wind turbines:

1. Are not located in an area where the wind turbines could create Doppler radar interference for missions at the Patuxent River Naval Air Station; and

2. Do not exceed the maximum height above ground level within the area specified in paragraph (5) of this subsection.

(3) Subject to paragraph (4) of this subsection, a written request of a landowner, with a favorable recommendation of the local agricultural advisory board and if not prohibited by federal, State, and local laws, may be approved by the Foundation to amend an existing easement to authorize the landowner to use the land subject to the easement for the generation of electricity by a facility utilizing an authorized renewable energy source provided that:

(i) The facility occupies no more than 5% or 5 acres, whichever is less, of the land subject to the easement:

1. Including permanent roads or structures that are necessary for access for operation and maintenance purposes; and

2. Not including any temporary impacts necessary for construction of the facility;

(ii) The Foundation determines that authorizing the landowner to use the land subject to the easement for the generation of electricity by a facility utilizing an authorized renewable energy source will not:

1. Interfere significantly with the agricultural use of the land subject to the easement; and

2. Interfere with State, local, or federal restrictions placed on funds used by the Foundation to purchase the easement; and

(iii) For generation of electricity from wind, the generating station's wind turbines:

1. Are not located in an area where the wind turbines could create Doppler radar interference for missions at the Patuxent River Naval Air Station; and



2. Do not exceed the maximum height above ground level within the area specified in paragraph (5) of this subsection.

(4)(i) The Foundation may not approve the use of land subject to an easement for the generation of electricity by a facility utilizing an authorized renewable energy source after June 30, 2019.

(ii) This paragraph may not be construed to prohibit the use of land subject to an easement for the generation of electricity in accordance with this subsection that was approved by the Foundation before July 1, 2019.

(5) A wind turbine located on land subject to an easement may not exceed the specified height above ground level in the area described as follows:

(i) East of a line passing through the reference point and 39.0986N and 76.5284W and:

1. Not more than 24 miles from the reference point, 0 feet;
2. More than 24 miles and not more than 30 miles from the reference point, 100 feet;
3. More than 30 miles and not more than 35 miles from the reference point, 200 feet;
4. More than 35 miles and not more than 39 miles from the reference point, 300 feet;
5. More than 39 miles and not more than 43 miles from the reference point, 400 feet;
6. More than 43 miles and not more than 46 miles from the reference point, 500 feet;
7. More than 46 miles and not more than 49 miles from the reference point, 600 feet; and
8. More than 49 miles and not more than 56 miles from the reference point, 700 feet; and

(ii) West of a line passing through the reference point and 39.0986N and 76.5284W and:

1. South of 38.4428N, 0 feet;
2. North of 38.4428N and no farther north than 38.5711N, 100 feet;
3. North of 38.5711N and no farther north than 38.5943N, 200 feet;
4. North of 38.5943N and no farther north than 38.6366N, 300 feet;
5. North of 38.6366N and no farther north than 38.6596N, 400 feet;
6. North of 38.6596N and no farther north than 38.6873N, 500 feet;
7. North of 38.6873N and no farther north than 38.7075N, 600 feet; and
8. North of 38.7075N and not more than 56 miles from the reference point, 700 feet.

(6) A facility owner who uses land subject to an easement for the generation of electricity in accordance with this subsection shall, on operation of the facility, remit an annual payment of 5% of any lease payment paid to the landowner to the Maryland Agricultural Land Preservation Fund under [§ 2-505](#) of this article.

(7) A lease executed by a facility owner and a landowner for the generation of electricity in accordance with this subsection shall include provisions to require a facility owner to remove the facility if the facility is no longer intended to be used to generate electricity.

(8) A landowner who is in violation of federal, State, or local laws regarding the operation of the facility is in violation of the easement and is subject to a civil penalty under [§ 2-519](#) of this subtitle.

(9) The Foundation may charge reasonable costs to cover any expenses relating to the Foundation's responsibility to amend any easement, as required under this subsection, and to monitor the enforcement and compliance of the easement.

(10) The Foundation shall adopt regulations to carry out the provisions of this subsection.

**Public right of access or right of use of property**

(d) Purchase of an easement by the Foundation does not grant the public any right of access or right of use of the subject property.

MD Code, Agriculture, § 2-513.1  
§ 2-513.1. County denial of application

**Application of section**

(a) This section applies only to applications affecting land encumbered by a deed of easement created under this subtitle.

**Grounds for denial of application**

(b) If the Foundation has not authorized approval of the application, a county may deny an application for:

- (1) A subdivision plat or plan;
- (2) A building permit, except for:
  - (i) Improvements or accessories to an existing residence; or
  - (ii) A farm building or structure;
- (3) A nonagricultural conditional use or special exception; or
- (4) Any other nonagricultural use or activity.

MD Code, Agriculture, § 2-514  
§ 2-514. Easement's termination

**Legislative intent**

(a) It is the intent of the General Assembly that any easement whose purchase is approved by the Board of Public Works on or before September 30, 2004, be held by the Foundation for as long as profitable farming is feasible on the land under easement, and an easement may be terminated only in the manner and at the time specified in this section.

**Request for review of easement**

(b) Except as provided in subsection (h) of this section, any time after 25 years from the date of purchase of an easement, the landowner may request that the easement be reviewed for possible termination of the easement.

**Inquiry by Foundation**

(c)(1) Upon a request for review of an easement for termination, an inquiry shall be conducted by the Foundation to determine the feasibility of profitable farming on the subject land.

(2) The inquiry shall include:

(i) On-site inspection of the subject land; and

(ii) A public hearing conducted by the Foundation board within the county containing the subject land after adequate public notice.

(3) The inquiry shall be concluded and a decision reached by the Foundation within 180 days after the request for termination, unless the landowner requests a hearing under subsection (h) of this section.

**Termination of easement**

(d) An easement may be terminated only with the approval of the governing body of the county containing the subject land. In deciding whether to approve the request for termination, the county governing body shall receive the recommendation of the county agricultural preservation advisory board established under § 2-504.1 of this subtitle. The decision of the county governing body shall be made after the public hearing required in subsection (c) of this section. The county governing body shall notify the Foundation of its decision within 90 days after the conclusion of the public hearing required in subsection (c) of this section.

**Notification of landowner of termination**

(e) Upon the affirmative vote of a majority of the Foundation members at-large, and upon the approval of the Secretary and the State Treasurer, the request for termination shall be approved, and the landowner shall be notified.

**Appraisal of subject land**



- (f)(1) If the request for termination is approved, two fair market value appraisals of the subject land shall be ordered by the Department of General Services at the direction of the Foundation at the expense of the landowner requesting termination of the easement.
- (2) The subject land shall be appraised as of the date of the approval of the request for termination.
- (3) The Department of General Services shall review the two appraisals and shall determine the fair market value of the subject land and shall issue a written statement as to the approved fair market value to the Foundation.
- (4) Upon receipt of the written statement from the Department of General Services, the Foundation shall issue a notification to the landowner of the approved fair market value.
- (5)(i) 1. No more than 180 days following the notification required under paragraph (4) of this subsection, the landowner may repurchase the easement by paying to the Foundation the difference between the approved fair market value and the agricultural value of the subject land.
2. For purposes of this paragraph, the fair market value is the same as set forth under [§ 2-511\(b\)](#) of this subtitle.
- (ii) For purposes of this paragraph, the agricultural value of the land is determined by the appraisal method that was in effect at the time the easement was acquired by the Foundation, either by the agricultural appraisal formula under [§ 2-511\(d\)](#) of this subtitle or by an appraisal that determines the price as of the valuation date which a vendor, willing but not obligated to sell, would accept, and which a purchaser, willing but not obligated to buy, would pay for a farm unit with land comparable in quality and composition to the property being appraised.
- (iii) 1. In the case of the termination of an easement that was originally purchased under a matching allotted purchase, the Foundation shall distribute to the contributing county a portion of the repurchase payment received under subparagraph (i) of this paragraph that is equal to the percentage of the original easement purchase price contributed by the county.
2. A. From the funds distributed to a county under this subparagraph, the county shall deposit in the county's special account for its agricultural land preservation program an amount that is at least equal to the percentage of the original easement purchase price that was paid out of the special account.
- B. If any of the funds deposited in the county's special account have not been expended or committed within 3 years from the date of deposit into the special account, the county collector shall remit those funds to the Comptroller for deposit in the Maryland Agricultural Land Preservation Fund as provided in [§ 13-306\(d\) of the Tax--Property Article](#).
3. The county shall deposit the balance of the funds distributed to it under this subparagraph in the county's general fund.
4. If an easement is terminated, the Foundation shall deposit its portion of the repurchase payment in the Maryland Agricultural Land Preservation Fund as provided under [§ 2-505](#) of this subtitle.

**Denial of request for termination**

(g) If the request for termination is denied, or if the landowner fails to repurchase the easement within 180 days of the notification required under subsection (f)(4) of this section, the landowner may not again request termination of the easement until five years after his last request for termination.

**Easements purchased with installment purchase agreement**

(h) A landowner may not terminate an easement purchased using an installment purchase agreement, as provided in § 2-510(k) of this subtitle.

**Easements acquired on or before September 30, 2004**

(i)(1) This subsection applies only to easements that the Foundation acquires on or before September 30, 2004.

(2) Before deciding on a request for termination of an easement, the Foundation shall provide a landowner with the opportunity for a hearing.

(3) The landowner may appeal any Foundation denial directly to the circuit court of the county where the land is located.

(4) The circuit court shall hear and determine the appeal on the record made in accordance with § 10-222 of the State Government Article.

MD Code, Agriculture, § 2-514.1

§ 2-514.1. Easement in perpetuity

An easement whose purchase is approved by the Board of Public Works on or after October 1, 2004, shall be held by the Foundation in perpetuity.

MD Code, Agriculture, § 2-515  
§ 2-515. Condemnation of land

**Acquisition of land under an agricultural preservation easement**

(a)(1) Subject to the provisions of paragraph (2) of this subsection, this subtitle does not prohibit an agency of the State or of a county or other governmental authority from acquiring by condemnation land which is under an agricultural preservation easement held by the Foundation or a county agricultural land preservation program if such acquisition is for a public purpose.

(2)(i) In this paragraph, "economic or residential development" does not include:

1. Roads;
2. Water lines or pipelines;
3. Sewer lines or pipelines;
4. Power transmission lines or natural gas pipelines; or
5. Stormwater or drainage facilities.

(ii) If the purpose of the condemnation of land under a Foundation easement is either for economic or residential development or parkland, the acquisition of the land shall be subject to approval by the Board of Public Works after review and recommendation of the Foundation.

(iii) The condemning authority shall demonstrate that:

1. A greater public purpose exists than that served by the Foundation easement; and
2. There is no reasonable alternative site.

**Payments by condemning authority**

(b) In the event of condemnation of land under an agricultural preservation easement, the condemning authority, whether State or county, shall pay:

- (1) To the landowner the full amount to which the landowner would be entitled if the land was not under easement, less any amount paid to the landowner by the Foundation or a county agricultural land preservation program for the easement; and
- (2) To the Maryland Agricultural Land Preservation Fund or a county agricultural land preservation program, an amount equal to any amount paid by the Foundation or the county agricultural land preservation program for the easement.

**Deductions from fair market value**

(c)(1) If a part or all of the property is acquired by the exercise of the power of eminent domain, the fair market value of the property is not affected by its having been qualified for a tax credit under [§ 9-206 of the Tax-Property Article](#) except that there shall be deducted from fair market value the lesser of:

- (i) The value of the easement granted; or



(ii) The excess of the aggregate amount of the property taxes that would have been due on the property if the easement had not been granted above the aggregate amount of property taxes actually paid on the property since the easement was granted.

(2) If the Foundation or a county agricultural land preservation program purchases the easement for a monetary consideration, other than or in addition to, the tax credit, the condemnation award shall be further reduced by an amount equal to the additional consideration.

MD Code, Agriculture, § 2-516  
§ 2-516. Approval of certification

The Foundation shall provide its approval or disapproval of an application by a county for certification under [§ 5-408 of the State Finance and Procurement Article](#).

MD Code, Agriculture, § 2-517  
§ 2-517. Critical Farms Program

**Purpose of Program**

(a)(1) The Maryland Agricultural Land Preservation Foundation shall establish a Critical Farms Program that is separate and independent from the requirements of the Maryland Agricultural Land Preservation Program established under this subtitle.

(2) The purpose of the Program is to provide interim or emergency financing for the acquisition of agricultural preservation easements on critical farms that would otherwise be sold for nonagricultural uses.

**Criteria for property qualified for Program**

(b)(1) The Foundation, with county approval, shall determine if a property qualifies for the Critical Farms Program in accordance with the criteria developed under paragraph (2) of this subsection.

(2)(i) The Foundation, in consultation with the Department of Planning, shall develop criteria for counties to consider when determining whether a property qualifies for the Program.

(ii) The criteria shall include:

1. The qualifying strategic characteristics of the property, including location and productivity;
2. The circumstances creating the risk of the property being sold for nonagricultural purposes;
3. When applicable, the characteristics of the purchaser of strategic farmland seeking assistance from the Program;
4. The consistency of the proposed acquisition with county goals and priorities and, if applicable, the county's priority preservation area; and
5. Evaluation of the property as a priority easement acquisition.

**Methods and procedures for purchase of easements**

(c)(1) The Maryland Agricultural Land Preservation Foundation shall develop, in consultation with the Department of General Services:

(i) A method for valuating an option to purchase an easement on property under the Critical Farms Program; and

(ii) A procedure for purchasing an easement option from the owner or purchaser of a critical farm under the Critical Farms Program.

(2) For purposes of setting an easement acquisition value for a State easement program, a property participating in the Program by sale of easement option shall be valued:

(i) As if it was not subject to any restriction imposed under this subtitle; and

(ii) In accordance with the valuation requirements of the specific State easement program to which the Critical Farms Program participant may apply to sell an easement.

(3) After a final easement sale, the Foundation shall be reimbursed by the Critical Farms Program participant for the amount that was paid by the Foundation for the easement option.

(4) The Foundation shall deposit the reimbursement in the Critical Farms Fund.

(5) The Foundation may be reimbursed for expenses associated with the acquisition of an easement option from the proceeds of the final easement sale and shall deposit the reimbursed expenses in the Critical Farms Fund.

#### **Disposition of property**

(d)(1) When acquiring a fee simple interest in property under the Critical Farms Program, the Maryland Agricultural Land Preservation Foundation may submit to the Board of Public Works for approval at the same time as acquisition a plan for subsequent disposition of all or any portion of the property.

(2) Disposition of property under the Program may include the sale, lease, exchange, or transfer of the property.

(3) Any proceeds from the disposition of property under the Program shall be deposited in the Critical Farms Fund.

(4) When disposing of property under this subsection, the Foundation shall impose a perpetual agricultural land preservation easement on the property to restrict the use of the property to agricultural purposes.

(5) The Foundation may require reimbursement for expenses associated with the acquisition and disposition of property under this subsection from the purchaser of the property and shall deposit the reimbursed expenses in the Critical Farms Fund.

(6) Property conveyed under this subsection is not:

(i) Excess personal property under [§ 4-501 of the State Finance and Procurement Article](#); or

(ii) Subject to the requirements of [§ 5-310 of the State Finance and Procurement Article](#).

#### **Critical Farms Fund**

(e)(1) In this subsection, "Fund" means the Critical Farms Fund.

(2) There is a Critical Farms Fund in the Department.

(3) The purpose of the Fund is to finance the acquisition of agricultural land preservation easements on critical farms by:

(i) The purchase of easement options under this section and under [§ 2-517.1](#) of this subtitle; and

(ii) The purchase of a fee simple interest in land and resale with an agricultural land preservation easement in place.

(4) The Fund is a continuing, nonlapsing revolving fund that is not subject to [§ 7-302 of the State Finance and Procurement Article](#).

(5) The Governor may include each year in the budget an appropriation to the Fund consistent with Section 5 of the Agricultural Stewardship Act of 2006.



(6) If the Governor's appropriation increases the Fund to more than \$16 million, the Foundation shall submit a report to the General Assembly, in accordance with [§ 2-1246 of the State Government Article](#), that adequately documents the additional need.

**Regulations**

(f) The Maryland Agricultural Land Preservation Foundation may adopt regulations to implement the provisions of this section.

§ 2-517.1. Farmland Preservation Partnership Program

**Purpose of Program**

- (a)(1) The Foundation may establish a Farmland Preservation Partnership Program that is governed by the requirements of this section.
- (2) The Farmland Preservation Partnership Program may include the acquisition of easements under the Critical Farms Program as provided under § 2-517 of this subtitle.
- (3) The objective of the Partnership Program is to preserve productive agricultural and forested lands.
- (4)(i) The Foundation may form partnerships for the purpose of purchasing easements on qualifying properties.
- (ii) Except for the Critical Farms Program where State funds may be made available as determined by the Foundation, the Foundation's partners shall cover the full purchase price, which may include the administrative costs of any easement for which the Foundation will be the grantee or the co-grantee.
- (iii) The properties that qualify for the Partnership Program shall meet the criteria developed by the Foundation in accordance with subsection (b) of this section.

**Farms qualified for Program**

- (b)(1) The Foundation shall develop criteria that determine when a farm qualifies for the Partnership Program.
- (2) At a minimum, any qualifying farm shall:
  - (i) Meet the Foundation's size criteria;
  - (ii) As determined by the Foundation, contain significant productive agricultural soil or forest soil; and
  - (iii) Be approved for participation in the Partnership Program by the governing body of the local jurisdiction in which the property is located.

**Ranking, valuation, or development restrictions**

- (c) Notwithstanding any other provision of this subtitle, an easement acquired by the Foundation in accordance with this section is not subject to the ranking, valuation, or development restrictions of this subtitle, except as determined by the Foundation's board of trustees.

MD Code, Agriculture, § 2-518  
§ 2-518. Priority preservation areas

**Area defined**

(a) In this section, "area" means a priority preservation area.

**County comprehensive plan**

(b) A county may include a priority preservation area element in the county's comprehensive plan.

**Area requirements**

(c) An area shall:

- (1)(i) Contain productive agricultural or forest soils; or
- (ii) Be capable of supporting profitable agricultural and forestry enterprises where productive soils are lacking;
- (2) Be governed by local policies, ordinances, regulations, and procedures that:
  - (i) Stabilize the agricultural and forest land base so that development does not convert or compromise agricultural or forest resources; and
  - (ii) Support the ability of working farms in the priority preservation area to engage in normal agricultural activities; and
- (3) Be large enough to support normal agricultural and forestry activities in conjunction with the amount of development permitted by the county in the priority preservation area, as represented in its adopted comprehensive plan.

**Area characteristics**

(d) An area may:

- (1) Consist of a single parcel of land, multiple connected parcels of land, or multiple unconnected parcels of land; and
- (2) Include rural legacy areas.

**Acreage goal for land to be preserved**

(e) A county's acreage goal for land to be preserved through easements and zoning within an area shall be equal to at least 80% of the remaining undeveloped land in the area, as calculated at the time of application for State certification of an area.

**Updates to county's comprehensive plan**

(f) Each time a county's comprehensive plan is updated, the update shall include an evaluation of:

- (1) The county's progress toward meeting the goals of the Foundation;
- (2) Any shortcomings in the county's ability to achieve the goals of the Foundation; and
- (3) Past, current, and planned actions to correct any identified shortcomings.

**Certification of area**

(g) In accordance with § 5-408 of the State Finance and Procurement Article and any regulations adopted under the authority of that section, the Department of Planning and the Maryland Agricultural Land Preservation Foundation shall jointly certify an area.



MD Code, Agriculture, § 2-519  
§ 2-519. Fines and penalties

**In general**

(a)(1) In addition to any other remedies available at law or in equity and after an opportunity for a hearing, the board of trustees of the Foundation may impose a penalty on an owner of property that is subject to an easement granted under this subtitle for a violation of any provision of this subtitle, any regulation adopted in accordance with § 2-504 of this subtitle, or an easement acquired by the Foundation.

(2) Each day a violation occurs is a separate violation for purposes of this section.

**Notice, opportunity for meeting, and time to correct violation**

(b) Before taking any action under this section, the Foundation shall provide the alleged violator with written notice of the proposed action, an opportunity for an informal meeting, and a reasonable time to correct the alleged violation.

**Penalties**

(c) The penalty imposed on a person under this section shall be:

(1) Up to \$2,500 for each violation;

(2) Not more than \$50,000 total for any single administrative hearing; and

(3) Assessed with consideration given to the willfulness of the violation and the extent to which the existence of the violation was known to the violator but uncorrected by the violator.

**Penalties paid to Maryland Agricultural Land Preservation Fund**

(d) Penalties collected by the Foundation under this section shall be paid into the Maryland Agricultural Land Preservation Fund established under § 2-505 of this subtitle.

**Regulations**

(e) The Foundation shall adopt regulations to carry out the provisions of this section.